

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1174

**Introduced by Senator McGuire
(Coauthors: Senators Beall, Hancock, Liu, and Mitchell)**

February 18, 2016

An act to amend Section 2220.05 of, and to add Section 2245 to, the Business and Professions Code, and to add Section 14028 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1174, as amended, McGuire. Medi-Cal: children: prescribing ~~patterns: patterns: psychotropic medications.~~

Existing law, the Medical Practice Act, among other things provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board's responsibilities include enforcement of the disciplinary and criminal provisions of the act.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including early and periodic screening, diagnosis, and treatment for any individual under 21 years of age. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law establishes a statewide system of child welfare services, administered by the State Department of Social Services, with the intent that all children are entitled to be safe and free from abuse and neglect.

~~This bill would require the State Department of Health Care Services and the State Department of Social Services to, on an ongoing basis, conduct~~ *Medical Board of California to conduct on a quarterly basis*

an analysis of data regarding Medi-Cal prescribers and their prescribing patterns ~~for all children enrolled in and receiving services pursuant to the Medi-Cal program.~~ *of psychotropic medications and related services using data provided by the State Department of Health Care Services and the State Department of Social Services.* The bill would require ~~the analysis to include the data to include a breakdown of data by specified population categories;~~ *categories of children,* including children in foster care. Commencing July 1, 2017, the bill would require ~~the State Department of Health Care Services and the State Department of Social Services to report quarterly to the Medical Board of California and to the Legislature of the ongoing analysis.~~ *Medical Board of California to report quarterly to the Legislature, the State Department of Health Care Services, and the State Department of Social Services the results of the analysis of the data.* The bill would require the Medical Board of California to review ~~the analysis data~~ in order to determine if any potential violations of law or ~~departures from~~ *excessive prescribing of psychotropic medications inconsistent with the standard of care* exist and conduct an investigation, if warranted, and would require the board to take disciplinary action, as specified. *The bill would require the board to handle on a priority basis investigations of repeated acts of excessive prescribing, furnishing, or administering psychotropic medications to a minor, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2220.05 of the Business and Professions
- 2 Code is amended to read:
- 3 2220.05. (a) In order to ensure that its resources are maximized
- 4 for the protection of the public, the Medical Board of California
- 5 shall prioritize its investigative and prosecutorial resources to
- 6 ensure that physicians and surgeons representing the greatest threat
- 7 of harm are identified and disciplined expeditiously. Cases
- 8 involving any of the following allegations shall be handled on a
- 9 priority basis, as follows, with the highest priority being given to
- 10 cases in the first paragraph:
- 11 (1) Gross negligence, incompetence, or repeated negligent acts
- 12 that involve death or serious bodily injury to one or more patients,

1 such that the physician and surgeon represents a danger to the
2 public.

3 (2) Drug or alcohol abuse by a physician and surgeon involving
4 death or serious bodily injury to a patient.

5 (3) Repeated acts of clearly excessive prescribing, furnishing,
6 or administering of controlled substances, or repeated acts of
7 prescribing, dispensing, or furnishing of controlled substances
8 without a good faith prior examination of the patient and medical
9 reason therefor. However, in no event shall a physician and surgeon
10 prescribing, furnishing, or administering controlled substances for
11 intractable pain consistent with lawful prescribing, including, but
12 not limited to, Sections 725, 2241.5, and 2241.6 of this code and
13 Sections 11159.2 and 124961 of the Health and Safety Code, be
14 prosecuted for excessive prescribing and prompt review of the
15 applicability of these provisions shall be made in any complaint
16 that may implicate these provisions.

17 (4) Repeated acts of clearly excessive recommending of cannabis
18 to patients for medical purposes, or repeated acts of recommending
19 cannabis to patients for medical purposes without a good faith
20 prior examination of the patient and a medical reason for the
21 recommendation.

22 (5) Sexual misconduct with one or more patients during a course
23 of treatment or an examination.

24 (6) Practicing medicine while under the influence of drugs or
25 alcohol.

26 (7) *Repeated acts of clearly excessive prescribing, furnishing,*
27 *or administering psychotropic medications to a minor without a*
28 *good faith prior examination of the patient and medical reason*
29 *therefor.*

30 (b) The board may by regulation prioritize cases involving an
31 allegation of conduct that is not described in subdivision (a). Those
32 cases prioritized by regulation shall not be assigned a priority equal
33 to or higher than the priorities established in subdivision (a).

34 (c) The Medical Board of California shall indicate in its annual
35 report mandated by Section 2312 the number of temporary
36 restraining orders, interim suspension orders, and disciplinary
37 actions that are taken in each priority category specified in
38 subdivisions (a) and (b).

39 *SEC. 2. Section 2245 is added to the Business and Professions*
40 *Code, to read:*

1 2245. (a) *The Medical Board of California on a quarterly*
2 *basis shall review the data provided pursuant to Section 14028 of*
3 *the Welfare and Institutions Code by the State Department of*
4 *Health Care Services and the State Department of Social Services*
5 *in order to determine if any potential violations of law or excessive*
6 *prescribing of psychotropic medications inconsistent with the*
7 *standard of care exist and, if warranted, shall conduct an*
8 *investigation.*

9 (b) *If, after an investigation, the Medical Board of California*
10 *concludes that there was a violation of law, the board shall take*
11 *disciplinary action, as appropriate, as authorized by Section 2227.*

12 (c) *If, after an investigation, the Medical Board of California*
13 *concludes that there was excessive prescribing of psychotropic*
14 *medications inconsistent with the standard of care, the board shall*
15 *take action, as appropriate, as authorized by Section 2227.*

16 (d) (1) *Notwithstanding Section 10231.5 of the Government*
17 *Code, commencing July 1, 2017, the Medical Board of California*
18 *shall report quarterly to the Legislature, the State Department of*
19 *Health Care Services, and the State Department of Social Services*
20 *the results of the analysis of data described in Section 14028 of*
21 *the Welfare and Institutions Code.*

22 (2) *A report to be submitted pursuant to this subdivision shall*
23 *be submitted in compliance with Section 9795 of the Government*
24 *Code.*

25 SEC. 3. *Section 14028 is added to the Welfare and Institutions*
26 *Code, to read:*

27 14028. (a) *The Medical Board of California shall conduct on*
28 *a quarterly basis an analysis of Medi-Cal and managed care*
29 *prescribers and their prescribing patterns of psychotropic*
30 *medications and related services using data provided quarterly*
31 *by the department in collaboration with the State Department of*
32 *Social Services that shall include, but is not limited to, the child*
33 *welfare psychotropic medication measures and the Healthcare*
34 *Effectiveness Data and Information Set measures related to*
35 *psychotropic medications.*

36 (b) (1) *The data provided to the Medical Board of California*
37 *pursuant to subdivision (a) shall include a breakdown by*
38 *population of all of the following:*

39 (A) *Children prescribed psychotropic medications in managed*
40 *care and fee-for-service settings.*

1 (B) Children adjudged as dependent children under Section 300
2 and placed in foster care.

3 (C) Children in juvenile halls, as described in Section 850, and
4 children placed in ranches, camps, or other facilities, as described
5 in Section 880.

6 (D) A minor adjudged a ward of the court under Section 601
7 or 602 who has been removed from the physical custody of the
8 parent and placed into foster care.

9 (E) Children with developmental disabilities, as described in
10 Section 4512.

11 (2) The data provided to the medical board as described in
12 paragraph (1) shall include total rate and age stratifications that
13 include the following:

14 (A) Birth to five years of age, inclusive.

15 (B) Six to 11 years of age, inclusive.

16 (C) Twelve to 17 years of age, inclusive.

17 ~~SECTION 1. Section 14028 is added to the Welfare and~~
18 ~~Institutions Code, to read:~~

19 ~~14028. (a) The department and the State Department of Social~~
20 ~~Services shall, on an ongoing basis, conduct an analysis of data~~
21 ~~regarding Medi-Cal prescribers and their prescribing patterns for~~
22 ~~all children enrolled in and receiving services pursuant to, the~~
23 ~~Medi-Cal program. The analysis shall include a breakdown of data~~
24 ~~by population of:~~

25 ~~(1) Children in foster care.~~

26 ~~(2) Children in juvenile hall, as described in Section 850.~~

27 ~~(3) Children placed in out-of-home care.~~

28 ~~(4) Children with developmental disabilities.~~

29 ~~(b) (1) Notwithstanding Section 10235.1 of the Government~~
30 ~~Code, commencing July 1, 2017, the department and the State~~
31 ~~Department of Social Services shall report quarterly to the Medical~~
32 ~~Board of California and to the Legislature the results of the ongoing~~
33 ~~analysis of data described in subdivision (a). The Medical Board~~
34 ~~of California shall review the analysis in order to determine if any~~
35 ~~potential violations of law or departures from the standard of care~~
36 ~~exist and, if warranted, shall conduct an investigation. If after the~~
37 ~~investigation, the Medical Board of California concludes that there~~
38 ~~was a violation of law or departure from the standard of care, the~~
39 ~~board shall take disciplinary action, as appropriate, as authorized~~
40 ~~by Section 2220.5 of the Business and Professions Code.~~

- 1 ~~(2) A report to be submitted pursuant to this subdivision shall~~
- 2 ~~be submitted in compliance with Section 9795 of the Government~~
- 3 ~~Code.~~

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